IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6072 of 2001
Date of Decision: December 21, 2007

Gurcharan Narang .....Petitioner

Versus

The State Bank of India and others .....Respondent

Coram: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE MOHINDER PAL

Present: Shri Namit Kumar, Advocate, for the petitioner.

Shri Ashok Aggarwal, Senior Advocate, with
Shri Vikas Chatrath, Advocate, for the respondents.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

HEMANT GUPTA, J.

The petitioner joined State Bank of India as Clerk-cum-Typist on 20.9.1978 and was promoted as Senior Assistant on 16.1.2001 with effect from 1.4.2000.

The respondent-Bank circulated a Scheme called State Bank of India Voluntary Retirement Scheme (for short `the Scheme') on 29.12.2000. The Scheme was open to all the permanent employees who have completed 15 years of service or 40 years of service as on 31.12.2000. The Scheme was to remain open during the period 15.1.2001 till 31.1.2001 i.e. the employees could make offer to seek voluntary retirement during the aforesaid period.

It is the case of the petitioner that since the petitioner was to complete 20 years of service on 20.3.2001, the petitioner vide letter dated 13.1.2001 asked the respondents to inform him about the date of retirement and that if the date of retirement is after 20.3.2001, then the petitioner was

to submit an application for voluntary retirement.

Since no reply was received, the petitioner submitted an application to seek voluntary retirement on 16.1.2001. The Bank subsequently fixed 15.2.2001 as the last date for withdrawal of the application submitted for voluntary retirement. On 14.2.2001, the petitioner submitted an application that he is interested in voluntary retirement but with pension and in case the pensionable service is not completed by the date of retirement, then his application for voluntary retirement should be treated as cancelled and withdrawn. The Bank rejected the conditional withdrawal so sought by the petitioner on 15.2.2001. On the same day, the petitioner submitted an application to seek voluntary retirement.

Later on 26.2.2001, the petitioner submitted another application to seek voluntary retirement as the employees were to retire under the Scheme after 20.3.2001, which will make the petitioner eligible for pension. Since the petitioner was not retired under the Scheme, the petitioner submitted another representation to seek voluntary retirement, but the same was not accepted. Thus, the petitioner invoked the writ jurisdiction of this Court to seek voluntary retirement in terms of his offer earlier made. It is contended that had the date of retirement been made clear in the Scheme or in subsequent communication, the same would have facilitated the petitioner to make up his mind to seek voluntary retirement. Since the Bank was evasive regarding the date of retirement, therefore, the respondent-Bank has erred in law in not considering the claim of the petitioner for voluntary retirement with pension.

In reply, it has been pointed out that in circular dated 18.1.2001

(R.1), an option was given to the employees to seek withdrawal from the Scheme by making an application on or before 15.2.2001. Vide Annexure R.3 dated 20.1.2001, all the Branch Offices in Chandigarh Circle were communicated that the effective date of retirement under the Scheme shall be 31.3.2001. It is, thus, sought to be contended that the date of retirement was known to the petitioner before he submitted his application to withdraw the offer for voluntary retirement on 15.2.2001. Therefore, the petitioner cannot now insist upon voluntary retirement. Apart from the said fact, the petitioner has relied upon the instance of Smt. G. Gauri Devi, who was similarly situated and has been permitted to seek voluntary retirement even after withdrawing her offer for voluntary retirement on 15.2.2001.

Having heard learned counsel for the parties at some length, we do not find any merit in the present writ petition. The entire case of the petitioner is based upon the fact that the date of retirement under the Scheme was not made known to the petitioner which led to his withdrawal on 15.2.2001. The said stand of the petitioner cannot be accepted. The Scheme and all clarifications were communicated to the Branches of the Bank and through the Branches to the employees, in the same manner as circular dated 20.1.2001 (R.3). The petitioner has clearly acted upon the circular dated 29.12.2000 (P.1) and circular dated 10.1.2001 (R.1). Annexure R.1 is the circular, granting time to the employees to seek withdrawal on or before 15.2.2001. Thus, it cannot be believed that the circular dated 20.1.2001 (R.3) was not known to the petitioner. The petitioner has withdrawn his offer to seek voluntary retirement on 15.2.2001. Once he has withdrawn the offer, the petitioner cannot seek voluntary retirement after the Scheme was closed. We do not find that

any information was withheld by the respondent-Bank, which may enable the petitioner to seek voluntary retirement after the scheme was closed.

In respect of the case of Smt. G.Gauri Devi, it has been pointed out that the Chief Manager of the Bank, where she was posted, has communicated in writing that the circular dated 20.1.2001 i.e. in respect of effective date of retirement on 31.3.2001 was not circulated as the Branch where she was posted was located in the distant place. In the present case, the petitioner was posted in the Branch situated in a busy locality of the city of Ludhiana. It cannot be inferred that said circular of 20.1.2001 could not be known to the petitioner.

In **Bank of India and others v. O.P. Swarankar etc. 2003(1) SLR 1**, the Hon'ble Supreme Court has held that the Scheme of voluntary retirement is contractual in nature. Since the Scheme is contractual in nature, the parties are to act strictly in terms of the Scheme. Since the petitioner withdrew his offer to seek voluntary retirement, the petitioner cannot be permitted to seek voluntary retirement after the Scheme came to an end.

Consequently, we do not find any patent illegality or material irregularity in the action of the respondent-Bank, which may warrant interference by this Court in exercise of its writ jurisdiction.

Hence, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

(MOHINDER PAL)
JUDGE

December 21, 2007
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